



**FINAL ADMINISTRATIVE DECISION  
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Newlywed Foods, Inc.  
DOCKET NO.: 08-24210.001-I-3 through 08-24210.012-I-3  
PARCEL NO.: See Below

The parties of record before the Property Tax Appeal Board are Newlywed Foods, Inc., the appellant, by attorney Patrick C. Doody, of The Law Offices of Patrick C. Doody in Chicago; the Cook County Board of Review by assistant state's attorney John Coyne with the Cook County State's Attorneys office in Chicago; as well as the intervenor, Chicago Board of Education, by attorney Ares G. Dalianis of Franczek Radelet P.C. in Chicago.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Cook County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO	PARCEL NUMBER	LAND	IMPRVMT	TOTAL
08-24210.001-I-3	13-27-415-003-0000	19,868	2,166	\$22,034
08-24210.002-I-3	13-27-415-004-0000	58,191	12,256	\$70,447
08-24210.003-I-3	13-27-415-007-0000	165,051	197,172	\$362,223
08-24210.004-I-3	13-27-415-008-0000	5,369	592	\$5,961
08-24210.005-I-3	13-27-415-010-0000	11,427	352	\$11,779
08-24210.006-I-3	13-27-415-012-0000	8,943	982	\$9,925
08-24210.007-I-3	13-27-415-015-0000	26,630	28,596	\$55,226
08-24210.008-I-3	13-27-415-018-0000	5,668	2,030	\$7,698
08-24210.009-I-3	13-27-415-019-0000	74,143	78,935	\$153,078
08-24210.010-I-3	13-27-415-040-0000	62,037	51,685	\$113,722
08-24210.011-I-3	13-27-415-047-0000	28,807	19,029	\$47,836
08-24210.012-I-3	13-27-415-048-0000	6,882	790	\$7,672

Subject only to the State multiplier as applicable.

**ANALYSIS**

The subject property consists of 12 land parcels comprising 518,296 square feet of land. These parcels are used as an industrial complex with seven buildings thereon. The buildings are either one-story or two-story structures with a total of 321,476 square feet of building area as well as 9.7% finished office area.

The Board found that the tax appeal years 2006, 2007 and 2008 involve common issues of law and fact and a consolidation of the appeals for hearing purposes would not prejudice the rights of the parties. Therefore, without objections from the parties and pursuant to Section 1910.78 of the rules of the Property Tax Appeal Board (86 Ill.Admin.Code 1910.78), the Board consolidated these property tax appeals for hearing purposes.

As to the basis of this appeal, the appellant argued that the fair market value of the subject is not accurately reflected in its assessed value.

As to the overvaluation argument, the appellant's pleadings included a copy of a summary appraisal undertaken by appraiser, Joseph Ryan. He testified that he holds the designation of Member of the Appraisal Institute (hereinafter MAI) since 1992 as well as certified general real estate appraisal licenses in Illinois, Indiana, and Michigan. He stated that his work experience included the Cook County assessor's office as well as the Cook County board of review. Ryan testified that he has appraised over 2,500 industrial properties, of which approximately 200 properties have been multi-building complexes with approximately 500 buildings containing over 250,000 square feet of building area. The parties stipulated to Mr. Ryan as an expert in appraisal theory and practice, while being accepted as such by the Board.

The Ryan appraisal was a summary appraisal addressing one of the three traditional approaches to value, while opining an estimated market value of \$2,410,000. This timely submitted appraisal was marked for the record as Appellant's Hearing Exhibit #1. As to this appraisal, Ryan testified that he had supervision and control of the appraisal process, while being assisted by the remaining signatory, Thomas Grogan, on this appraisal. He stated that the purpose of his appraisal was to determine the market value of the unencumbered fee simple estate of the subject and that the effective date of his appraisal was January 1, 2006. Therefore, the scope of his appraisal was limited to the sales comparison approach to value which he opined provided the best results of analysis, opinion, and conclusion of a disinterested third party with the most relevant method of estimating market value for this subject property. The appraisal stated that the cost and income approaches were considered, but accorded limited reliability because buyers and sellers would base their sale considerations primarily in the sales comparison approach especially with properties similar to the subject.

As to the subject property, Ryan testified that his staff appraiser inspected the subject property on March 5, 2007 including the interior and exterior of the subject, while Ryan has also completed such an inspection on three prior occasions for other appraisal assignments.

Moreover, Ryan described the subject's site as containing 518,296 square feet of land consisting of irregularly shaped, land

parcels with 400 feet of frontage on the north side of Fullerton Avenue, 890 feet of frontage on the east side of Keeler Avenue, and 217 feet of frontage on the south side of Wrightwood Avenue. He stated that the land-to-building ratio is 1.61:1 with the subject improved with seven buildings consisting of an industrial complex. These buildings are masonry, one-story or two-story structures containing 321,476 square feet of area and were originally constructed in the 1930s. The complex includes 31,071 square feet of finished office area while the appraisal stated that the subject's buildings are of average condition. However, Ryan stated that the subject suffers from functional obsolescence due to its inferior, multi-building layout. The appraisal also stated that a typical owner/occupier would rather have one building than a number of smaller buildings, not only for ease of movement but also in order to keep operating expenses low.

As to the highest and best use analysis, Ryan testified that the subject's highest and best use as vacant and available would be for industrial development. The subject's highest and best use as improved was the existing use of the property.

Ryan stated that the cost approach was not completed because the property was built in the 1930s and due to the subject's age and functional obsolescence of a multi-building facility, this approach would be given little or no weight. As to the income approach, he stated that the subject is owner-occupied for a significant amount of time without any rental history or expenses; therefore, he would have to impute rents and expenses to the property which is fairly subjective. Ryan indicated that his appraisal addressed one of the three traditional approaches to value in developing the subject's market value estimate, the sales comparison approach, which indicated a value of \$2,410,000, rounded.

Under this approach to value, Ryan testified that he utilized five suggested comparables, four of which are located within Chicago, as is the subject property. Each property contained an industrial building which was constructed from 1911 to 1960. These properties ranged: in land size from 236,836 to 2,068,311 square feet; in building size from 255,187 to 862,056 square feet; and in land-to-building ratio from 0.68:1 to 2.40:1. The properties sold from June, 2003, to August, 2006, for prices that ranged from \$1,600,000 to \$6,500,000 or from \$5.76 to \$9.21 per square foot of building area. Ryan stated that he confirmed the details of the sale with a party to each transaction as well as with public data from both CoStar Comps service and from County records.

In addition, Ryan testified that sale #2 had one large tenant which vacated the property prior to this sale, while sale #4 had a short-term tenant at the time of sale.

As to all of the improved sales, Ryan testified as to the comparability and adjustments applicable to each sale property. After making adjustments, Ryan considered a unit value of \$7.50

per square foot to be appropriate for the subject resulting in a market value of \$2,411,070, or \$2,410,000, rounded.

Under cross-examination by the state's attorney, Ryan testified that larger industrial multi-building complexes typically don't rent out a complete building to one tenant, not enough to create a sample size large enough to make a determination of what the rent would be. He stated that it is somewhat subjective of how you would apply the rent to the subject without rental history. Ryan also indicated that his sale #2 was rented by a large tenant at the time of sale and that this rental data could have been used to develop an income approach.

Under cross-examination by the intervenor's attorney, Ryan stated that his appraisal referenced certain case law, which he acknowledged that he had not read in their entirety. Intervenor's Exhibit #1 is a courtesy copy of the Illinois Supreme Court's decision in People ex rel. Carr v. Stewart et al. 315 Ill. 25, 145 N.E. 600 (1924) submitted in order for intervenor's attorney to examine Ryan. Ryan was also examined regarding Intervenor's Exhibits #2, #3, and #4 which were CoStar Comps printouts relating to Ryan's improved sale properties #1, #2, and #4, respectively.

As to Intervenor's Exhibit #2, Ryan testified that the sale of a vacant building is the best evidence of the fee simple market value of the property. Moreover, he stated that if the building were converted to multi-tenant use that could reposition it within the market, while indicating that this was eventually undertaken by Ryan's sale #1, but only after the purchase cited within his appraisal.

As to Intervenor's Exhibit #3, Ryan testified that the printout reflects that his sale #2 was a multi-tenant property with high vacancy which was part of a 1031 exchange. However, he stated that the buyer in this sale didn't have to purchase this property and the buyer could have paid more than market value for the property. Ryan had no explanation for why the printouts reflected a loan amount almost \$3.4 million over the purchase price of that property, but acknowledged that he did not include this data in his appraisal report.

As to Intervenor's Exhibit #4, Ryan testified that this printout for his sale #4 indicated that the property was an industrial condominium property and that he did not disclose this data in his appraisal because at the time of his appraisal, there was no condominium parcel number assigned to the property by the assessor's office.

On redirect examination, Ryan testified that at the time of a property's sale, a seller does not care what the buyer's intended use of the property is because the seller is looking to divest the property. He also stated that as an appraiser he is bound to examine the current use of the property at the time of sale and not any subsequent use of the property.

In addition, as to the absence of an income approach, Ryan testified that in order to develop this approach he would need reliable rental and expense data. In the case of this subject property, he stated that there was no reliable market data for a 70-year old, owner-occupied, industrial property comparable in size to the subject.

On further examination, Ryan testified that reviewing a CoStar Comps printout is normally a starting point in searching for comparable properties, but that at times the information reflected thereon is incorrect. Therefore, he stated that this is why he then verifies the information with a party to the sale transaction. Moreover, he indicated that this on-line service could update information on a property's printout at any time. Lastly, he stated that it is not uncommon for an appraiser to undertake only one of the three traditional approaches to value, and that the sales comparison approach is considered the most relevant approach to value by the market.

The board of review timely submitted "Board of Review Notes on Appeal" wherein the subject's final assessment of \$1,273,034 was disclosed indicating a market value of \$3,536,206 or \$11.00 per square foot applying the ordinance level of assessment at 36% for class 5b, industrial property as designated by Cook County Real Property Assessment Classification Ordinance.

For tax year 2008, the board of review's evidence includes two memorandums as well as copies of CoStar Comps printouts for 7 sale properties. Six of the seven properties are improved with a solitary building, while sale #3 includes two buildings thereon. Sale #2 and #3 are single-tenant properties, while the remaining sales are multi-tenant. The properties are identified as manufacturing, industrial, warehouse, distribution, or self-storage usages. The printouts indicate that: sale #1 was not advertised on the open market; sale #5 was absent any real estate brokers for the parties involved in the sale; and sale #6 was vacant at the time of purchase. The buildings were constructed from 1902 to 1986 and containing buildings that ranged in size from 207,372 to 480,000 square feet of building area. The sales indicated an unadjusted range of price from \$6.87 to \$32.69 per square foot. In addition, the board of review's initial memorandum stated that these sales had not been adjusted for: market conditions, time, location, age, size, land-to-building ratio, parking, zoning, and other related factors.

Moreover, the board of review's second memorandum stated that the data was not intended to be an appraisal or an estimate of value and should not be construed as such. This memorandum indicated that the information provided therein had been collected from various sources that were assumed to be factual and reliable; however, it further indicated that the writer hereto had not verified the information or sources and did not warrant its accuracy. As a result of its analysis, the board requested confirmation of the subject's assessment.

The intervenor submitted pleadings which included a brief and CoStar Comps printouts for 8 sales of 7 different properties. All seven properties are improved with a masonry, one-story or two-story, solitary building. Sales #6 and #7 are single-tenant properties, while the remaining sales are multi-tenant. The properties are identified as manufacturing, industrial, warehouse, or distribution usages. The printouts indicate that: sales #1, #2 and #4 are owner-user properties; sales #4 and #5 were absent any real estate brokers for the parties involved in each sale; and sale #7 was vacant at the time of purchase. The buildings were constructed from 1922 through 1986 with building sizes ranging from 112,000 to 321,476 square feet of building area. The sales indicated an unadjusted range of price from \$11.00 to \$34.85 per square foot.

At hearing, the appellant's attorney Moved to Strike the board of review's and intervenor's evidence due to the absence of the preparer thereof to be offered as a witness at hearing. Upon due consideration of the parties' positions, the Board denied the appellant's motion to strike while indicating that the Board would accord the appropriate weight to all of the parties' evidence submissions.

After hearing the testimony and arguments as well as considering the evidence, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. 86 Ill.Admin.Code 1910.65(c). Having considered the evidence presented, the Board concludes that the appellant has met this burden and that a reduction is warranted.

Having considered the evidence presented, the Board finds that the best evidence of valuation was submitted by the appellant and demonstrates that a reduction in the assessment is warranted for the assessment year at issue. The Board accorded little weight to the board of review's and intervenor's evidence submission, due to the failure to present the preparer for testimony and cross-examination concerning qualifications, the methodology used therein, and any conclusions related thereto. Moreover, the Board finds that the board of review's and intervenor's evidence consisted of raw sales data without any adjustments thereto.

The Board finds the appellant's appraisal with supporting testimony persuasive because the appraisers: have experience in appraising large, industrial complexes as is the subject;

undertook an interior and exterior inspection of the subject property; developed one of the three traditional approaches to value; provided persuasive rationale for not undertaking the other approaches to value as it relates to an aged, owner-occupied, industrial complex as is the subject; used improved industrial sales from the market while undertaking appropriate adjustments; and verified sale details with a party to each transaction as well as market and official sources.

In addition, the courts have stated that where there is credible evidence of comparables sales, these sales are to be given significant weight as evidence of market value. In Chrysler Corporation v. Property Tax Appeal Board, 69 Ill.App. 3d 207 (2<sup>nd</sup> Dist. 1979). The Court further held that significant relevance should not be placed on the cost approach or the income approach especially when there is market data available. Id. Moreover, in Willow Hill Grain, Inc. v. Property Tax Appeal Board, 187 Ill.App.3d 9 (5<sup>th</sup> Dist. 1989), the Court held that of the three primary methods of evaluating property for purposes of real estate taxes, the preferred method is the sales comparison approach.

On the basis of this analysis, the Board finds that the subject's fair market value for tax year 2008 is \$2,410,000 and that a reduction is warranted to the subject property's assessment.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

*Donald R. Cuit*

Chairman

*K. L. Fern*

Member

*Frank A. Huff*

Member

*Mario Morris*

Member

*J. R.*

Member

DISSENTING: \_\_\_\_\_

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: September 20, 2013

*Allen Castrovillari*

Clerk of the Property Tax Appeal Board

**IMPORTANT NOTICE**

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing

complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.